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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                       |                                      |  |
|------------------------------|---------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/729,363         | Applicant(s)<br>STROPPIANA, FERNANDO |  |
|                              | Examiner<br>Norca L. Torres-Velazquez | Art Unit<br>1771                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 22-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>41604</u> . | 6) <input type="checkbox"/> Other: _____  |

Handwritten marks: "K" and a signature "Mc".

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 22-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Information Disclosure Statement***

2. The documents listed in the Information Disclosure Statement have been considered to the extent of the English Abstracts submitted by Applicants and the European Search Report for EP 020425752.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed "layer of absorbing material" [Claim 17] and also the claimed "layer of glue" [Claim 10] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language "in the condition of" of claim 17 is not clear. Where is the claimed layer of absorbing material located?

6. Claims 10-13 and 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the spatial relationship of the claimed "layer of glue" and "layer of absorbing material". It is not clear from the claims (and not shown in the drawings), what is the location of these layers.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by HARKINS, Jr. (US 4,698,258).

HARKINS, Jr. relates to products for covering surfaces such as floors, walls, countertops, furniture, among others. (Col. 1, lines 1-5) The reference teaches a composite web comprising two parallel layers of nonwoven fiber-glass webs each impregnated with a solidified resinous and separated from each other by a core layer of solidified resinous composition which is bonded to the resinous composition used to impregnate the fiber glass layers. (Col. 4, lines 55-60) The reference further teaches that the non-woven fiberglass webs usually consist solely of the synthetic binder and the glass fibers, although the fibers may be in a mixture with polyester fibers. (Col. 5, lines 20-24) The reference teaches the use of polyvinyl resins for the construction of the fiberglass webs and teaches that best results are obtained with a dispersion of resin in a plasticizer in the form of a plastisol. The reference also teaches, "gelling". (Col. 5, lines 6-9, lines 41-59; Col. 7, line 32) The core layer is comprised of the same material that is used for impregnating the fiberglass webs. The composition may be applied as a plastisol and also as a *dry blend*. (Col. 5, lines 63-66) It is the Examiner's interpretation that by dry blend it encompass materials such as granules. The reference recognizes the application of adhesives in the outer layer of one of the fiberglass webs in applications such as tile products. (Refer to Col. 6, lines 55-61 and Col. 17, lines 46-48) The reference teaches that the fiberglass webs may range in overall thickness from 0.005 inches to 0.030 inches [0.127-0.762 mm]. (Col. 5, lines 12-14) With regards to the thickness of the core layer, the reference teaches that it should be at least about the sum of the thickness of the fiberglass webs prior to impregnation. (Col. 8, lines 10-22) Therefore, it is the Examiner's interpretation that assuming the thickness of the webs is 0.762

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mm each then the thickness of the core layer should be about 1.524 mm, which reads on the values claimed in claims 8 and 9 of the present application. The reference further teaches a foamable layer above the base web, which the Examiner equates to the foam material of claims 14-16. (Refer to Col. 11, lines 26-31)

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over HARKINS, Jr. as applied above, and further in view of POTEET (US 4,853,280).

HARKINS, Jr. fails to teach a layer of absorbing material.

POTEET is directed to floor coverings and comprises a backing layer having a weight from about 0.9 to 24 ounces per square yard [30.5-814 gsm] which comprises a nonwoven fabric composed of randomly oriented polyester fibers. (Refer to claims 1-4)

Since both references relate to floor covering materials, the purpose disclosed by POTEET would have been recognized in the pertinent art of HARKINS, Jr.


It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the structure of HARKINS, Jr. and provide it with a nonwoven layer with the motivation of providing a covering material which can be pulled from the floor where adhesives have been used, and is easily replaced, but which resists buckling and folding when rolled as disclosed by POTTET. (Refer to Col. 2, lines 16-22)

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Norca L. Torres-Velazquez  
Primary Examiner  
Art Unit 1771

September 13, 2005